

FILED
08-06-2021
Clerk of Circuit Court
Rock County, Wisconsin
2021CV000523
Honorable Daniel T. Dillon
Branch 4

EXHIBIT A

STATE OF WISCONSIN CIRCUIT COURT ROCK COUNTY

GAIL S. BILLUPS
4216 South County Road D
Janesville, Wisconsin 53548,

Plaintiff,

STATE OF WISCONSIN DEPARTMENT
OF HEALTH SERVICES
c/o Shelley Malofsky
Office of Legal Counsel
One West Wilson Street, Room 651
Madison, Wisconsin 53703,

UNITEDHEALTHCARE OF
WISCONSIN, INCORPORATED
125 South 84th Street, Suite 400
Milwaukee, Wisconsin 53214,

DEAN HEALTH PLAN,
INCORPORATED
1277 Deming Way
Madison, Wisconsin 53717,

Involuntary Plaintiffs,

v.

MANITOBA PUBLIC INSURANCE
234 Donald Street
Winnipeg, Manitoba, Canada, R3C 4A4,

CIVIL SUMMONS

Case Number:
Case Code: 30101
Personal Injury – Auto
Amount Claimed Greater
Than \$5,000.00

TRANSX LIMITED d/b/a TRANSPORTATION
TRANSX LIMITED
17641 South Ashland Avenue
Homewood, Illinois 60430,

ERIC S. NICKEL
328 West Homer Street
Freeport, Illinois 61032,

Defendants.

THE STATE OF WISCONSIN TO: All Named Defendants.

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is served upon you, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written Answer, as that term is used in Wis. Stat. Ch. 802, to the Complaint. The Court may reject or disregard an Answer that does not follow the requirements of the statutes. The Answer must be sent or delivered to:

Clerk of Circuit Courts
Rock County Courthouse
51 South Main Street
Janesville, Wisconsin 53545

and to the Plaintiff's attorneys:

Todd R. Korb
Hupy and Abraham, S.C.
111 East Kilbourn Avenue
Suite 1100
Milwaukee, Wisconsin 53202

You may have an attorney help or represent you.

If you do not provide a proper Answer within forty-five (45) days, the Court may grant Judgment against you for the award of money or other legal action requested in the Complaint. A Judgment may be enforced as provided by law. A Judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

DATED at Milwaukee, Wisconsin, this 4th day of August, 2021.

HUPY AND ABRAHAM, S.C.
Attorneys for the Plaintiff,

By: 

Todd R. Korb
State Bar Number: 1026950

Post Office Address
111 East Kilbourn Avenue
Suite 1100
Milwaukee, Wisconsin 53202
(414) 223-4800

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STATE OF WISCONSIN CIRCUIT COURT ROCK COUNTY

GAIL S. BILLUPS
4216 South County Road D
Janesville, Wisconsin 53548,

Plaintiff,

STATE OF WISCONSIN DEPARTMENT
OF HEALTH SERVICES
c/o Shelley Malofsky
Office of Legal Counsel
One West Wilson Street, Room 651
Madison, Wisconsin 53703,

UNITEDHEALTHCARE OF
WISCONSIN, INCORPORATED
125 South 84th Street, Suite 400
Milwaukee, Wisconsin 53214,

DEAN HEALTH PLAN,
INCORPORATED
1277 Deming Way
Madison, Wisconsin 53717,

Involuntary Plaintiffs,

v.

MANITOBA PUBLIC INSURANCE
234 Donald Street
Winnipeg, Manitoba, Canada, R3C 4A4,

CIVIL COMPLAINT

Case Number:
Case Code: 30101
Personal Injury – Auto
Amount Claimed Greater
Than \$5,000.00

TRANSX LIMITED d/b/a TRANSPORTATION
TRANSX LIMITED
17641 South Ashland Avenue
Homewood, Illinois 60430,

ERIC S. NICKEL
328 West Homer Street
Freeport, Illinois 61032,

Defendants.

NOW COMES the Plaintiff, Gail S. Billups, by and through her attorneys, Hupy and Abraham, S.C., by Todd R. Korb, and as for her Complaint against the Defendants, alleges and shows to the Court as follows:

1. That the Plaintiff, Gail S. Billups, is an adult resident of the City of Janesville, County of Rock, Wisconsin, currently residing at 4216 South County Road D, Zip Code 53548.

2. That the Involuntary Plaintiff, State of Wisconsin Department of Health Services, is a governmental agency responsible for administering the State of Wisconsin Medical Assistance Program; that process for the Involuntary Plaintiff, State of Wisconsin Department of Health Services, shall be served upon Shelley Malofsky, located at the Office of Legal Counsel, One West Wilson Street, Room 651, Madison, Wisconsin, Zip Code 53703; and that the Involuntary Plaintiff, State of Wisconsin Department of Health Services, alleges to have paid out money on behalf of the Plaintiff, Gail S. Billups, and is therefore named as a subrogated party in this action pursuant to Wis. Stat. § 803.03.

3. That the Involuntary Plaintiff, UnitedHealthcare of Wisconsin, Incorporated, is a domestic health maintenance organization, organized and existing under the laws of Wisconsin, with its principal place of business located at 125 South 84th Street, Suite 400, Milwaukee, Wisconsin, Zip Code 53214; that the registered agent in Wisconsin for the Involuntary Plaintiff,

UnitedHealthcare of Wisconsin, Incorporated, is CT Corporation System, located at 301 South Bedford Street, Suite One, Madison, Wisconsin, Zip Code 53703; and that the Involuntary Plaintiff, UnitedHealthcare of Wisconsin, Incorporated, alleges to have paid out money on behalf of the Plaintiff, Gail S. Billups, and is therefore named as an alleged subrogated party in this action pursuant to Wis. Stat. § 803.03.

4. That the Involuntary Plaintiff, UnitedHealthcare of Wisconsin, Incorporated, is not entitled to reimbursement or subrogation.

5. That the Involuntary Plaintiff, Dean Health Plan, Incorporated, is a domestic health maintenance organization, organized and existing under the laws of Wisconsin, with its principal place of business located at 1277 Deming Way, Madison, Wisconsin, Zip Code 53717; that the registered agent in Wisconsin for the Involuntary Plaintiff, Dean Health Plan, Incorporated, is CT Corporation System, located at 301 South Bedford Street, Suite One, Madison, Wisconsin, Zip Code 53703; and that the Involuntary Plaintiff, Dean Health Plan, Incorporated, alleges to have paid out money on behalf of the Plaintiff, Gail S. Billups, and is therefore named as an alleged subrogated party in this action pursuant to Wis. Stat. § 803.03.

6. That the Involuntary Plaintiff, Dean Health Plan, Incorporated, is not entitled to reimbursement or subrogation.

7. That the Defendant, Manitoba Public Insurance, is a foreign insurance company, organized and existing under the laws of Manitoba, Canada, with its principal place of business located at 234 Donald Street, Winnipeg, Manitoba, Canada, Postal Code R3C 4A4; that legal process for the Defendant, Manitoba Public Insurance, shall be served upon Jeff Wharton, located at 314 Legislative Building, 450 Broadway, Winnipeg, Manitoba, Canada, Postal Code R3C 0V8; that the Defendant, Manitoba Public Insurance, is engaged in the business of writing and selling

insurance, and that prior to the date of the accident herein, September 28, 2018, it issued its policy of insurance to the Defendant, TransX Limited, insuring it, its employees, agents, servants, representatives, and/or volunteers, herein the Defendant, Eric S. Nickel, against the liability of the type hereinafter alleged; that this policy of insurance was issued and delivered in the Country of Canada; and that this policy of insurance was in full force and effect at all times material hereto.

8. That the Defendant, TransX Limited, is a foreign corporation, organized and existing under the laws of Minnesota, with its principal place of business located at 17641 South Ashland Avenue, Homewood, Illinois, Zip Code 60430; that the registered agent in Wisconsin for the Defendant, TransX Limited, is Corporation Service Company, located at 8040 Excelsior Drive, Suite 400, Madison, Wisconsin, Zip Code 53717; that the Defendant, TransX Limited, does business as Transportation TransX Limited; that, upon information and belief, the Defendant, TransX Limited, employed and/or used as an agent the Defendant, Eric S. Nickel, at the time of the accident described herein, September 28, 2018; and that the Defendant, TransX Limited, is a named Defendant herein pursuant to the theory of vicarious liability, including the doctrine of *Respondeat Superior*, in that it is liable for the actions of its employees, agents, servants, representatives, and/or volunteers while in the course and scope of their employment or agency.

9. That the Defendant, Eric S. Nickel, upon information and belief, is an adult resident of the City of Freeport, County of Stephenson, Illinois, currently residing at 328 West Homer Street, Zip Code 61032; and that the Defendant, Eric S. Nickel, was employed by and/or an agent of the Defendant, TransX Limited, at all times material hereto.

CAUSE OF ACTION

10. That on or about September 28, 2018, the Plaintiff, Gail S. Billups, was the operator of a motor vehicle traveling northbound on Interstate Highway 39, at or near the intersection with

U.S. Highway 14, in the City of Janesville, County of Rock, Wisconsin; and that at that same time and place, the Defendant, Eric S. Nickel, was the operator of a motor vehicle also traveling northbound on Interstate Highway 39, when he negligently operated his motor vehicle and collided with the motor vehicle operated by the Plaintiff, Gail S. Billups, thereby causing the Plaintiff's injuries and damages as hereafter described.

11. That the foregoing acts of negligence on the part of the Defendant, Eric S. Nickel, were the direct and proximate cause of the injuries and damages sustained by the Plaintiff, Gail S. Billups.

12. That the Defendant, TransX Limited, is a named Defendant herein pursuant to the theory of vicarious liability, including the doctrine of *Respondeat Superior*, in that it is liable for the acts of its employees, servants, agents, representatives, and/or volunteers, upon information and belief herein, the Defendant, Eric S. Nickel, while in the course and scope of their employment or agency.

13. That, upon information and belief, the foregoing acts of negligence on the part of the Defendant, Eric S. Nickel, were committed while the Defendant, Eric S. Nickel, was acting in the course and scope of his employment and/or agency with the Defendant, TransX Limited; and that the foregoing acts of negligence on the part of the Defendant, Eric S. Nickel, were the direct and proximate cause of the injuries and damages sustained by the Plaintiff, Gail S. Billups, as set forth herein. Therefore, upon information and belief, the Defendant, TransX Limited, is liable for the negligent conduct of the Defendant, Eric S. Nickel, under the theory of vicarious liability, including the doctrine of *Respondeat Superior*.

14. That as a result of the foregoing acts of negligence on the part of the Defendant, Eric S. Nickel, the Plaintiff, Gail S. Billups, sustained injuries to her body and suffered emotional

distress; that she has suffered pain and may continue to suffer pain for an indefinite time in the future; that she was required to seek medical attention; that she may be required to seek additional and continued medical attention in the future and to expend large sums of money for said medical attention; that she was unable to maintain her employment for a period of time and may continue to be so restricted; and that she was unable to engage in her normal activities for a period of time, and may continue to be so restricted, all to her damage.

WHEREFORE, the Plaintiff, Gail S. Billups, demands Judgment against the Defendants in the following forms: for compensatory damages as the Court may deem just and equitable, together with costs and disbursements of this action, reasonable attorney's fees associated with this action, for all interest due and owing pursuant to Wis. Stat. § 628.46, for dismissal of any and all subrogation or reimbursement claims in this matter, and any further relief the Court may deem just and equitable.

DATED at Milwaukee, Wisconsin, this 4th day of August, 2021.

HUPY AND ABRAHAM, S.C.
Attorneys for the Plaintiff,

By: 

Todd R. Korb

State Bar Number: 1026950

Post Office Address

111 East Kilbourn Avenue
Suite 1100
Milwaukee, Wisconsin 53202
(414) 223-4800

STATE OF WISCONSIN

CIRCUIT COURT

ROCK

Gail S. Billups et al vs. Manitoba Public Insurance et al

**Electronic Filing
Notice**

Case No. 2021CV000523

Class Code: Personal Injury/Automobile

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Clerk of Circuit Court

Rock County, Wisconsin

2021CV000523

Honorable Daniel T. Dillon

Branch 4

MANITOBA PUBLIC INSURANCE
234 DONALD STREET
WINNIPEG R3C 4A4

Case number 2021CV000523 was electronically filed with/converted by the Rock County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$20.00 fee to register as an electronic party. This fee may be waived if you file a Petition for Waiver of Fees and Costs Affidavit of Indigency (CV-410A) and the court finds you are indigent under §814.29, Wisconsin Statutes.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

Pro Se opt-in code: a6eba0

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 608-743-2210.

Rock County Circuit Court
Date: August 9, 2021